

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

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| In re Application of: |) | |
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| Schultink |) | |
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| Serial No.: 10/576,225 |) | Group Art Unit: 1797 |
| |) | |
| Filed: March 12, 2007 |) | Examiner: Minh Chau Thi Pham |
| |) | |
| For: FILTER BAG AND METHOD |) | Board of Patent Appeals and |
| FOR THE PRODUCTION |) | Interferences |
| THEREOF |) | |
| |) | |
| Confirmation No.: 6936 |) | |

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APPEAL BRIEF UNDER 37 C.F.R. § 41.37

In support of the Notice of Appeal filed on March 22, 2010, and pursuant to 37 C.F.R. § 41.37, Appellants present this Appeal Brief in the above-captioned application.

This is an appeal to the Board of Patent Appeals and Interferences from the Examiner's final rejection of claims 1-9, 11-18, 20-24, and 26-29 in the Final Office Action dated September 21, 2009. The appealed claims are set forth in the attached Claims Appendix.

1. Real Party in Interest

This application is assigned to EUROFILTERS N.V., the real party in interest.

2. Related Appeals and Interferences

There are no other appeals or interferences that would directly affect, be directly affected, or have a bearing on the instant appeal.

3. Status of the Claims

Claims 1-9, 11-18, 20-24, and 26-29 have been rejected in the Final Office Action. Claims 10, 19, and 25 have been cancelled. The final rejection of claims 1-9, 11-18, 20-24, and 26-29 is being appealed.

4. Status of Amendments

All amendments submitted by Appellants have been entered.

5. Summary of Claimed Subject Matter

The present invention, as recited in independent claim 1, relates to a filter bag (1) for a vacuum cleaner. (See Specification, ¶ [0037], Fig. 1). The filter bag (1) includes a substantially tubular bag made from a bag material having at least one non woven composite layer. (See Id.). The bag has a closed free end area (2, 13) and an at least partially closed area (9) opposite the closed free end area (2, 13). (See Id. ¶¶ [0039] – [0040], Figs. 1-4c). The filter bag (1) also includes a retaining plate. (See Id., ¶¶ [0031], [0046]). The edges (10, 11) of the bag are at least partially interconnected by a weld seam to form the at least partially closed area (9). (See Id., Fig. 2) A bottom of the bag (13) is formed by at least partially interconnecting plies of the bag material at least in areas in which plies of the bag material lie one above the other. (See Id., ¶ [0043], Figs. 4a-4b). A pre-crease (7) is introduced into the bag material substantially parallel to the weld seam (6) in the bottom (2, 13). (See Id., ¶ [0039], Figs. 1-2).

The present invention as recited in independent claim 20, relates to a method for making the filter bag (1) of claim 1. The method includes producing a substantially tubular bag (1) having at least partially closed area (9) on a closed side of the bag. (See Specification, ¶ [0039]). The method also includes introducing a die (24) from an open side of the bag in a direction of the closed side (2) of the bag so that a bottom is produced by folding the bag over the die (24). (See Id., ¶ [0044], Fig. 4b). The method also includes connecting plies in the bottom (2, 13) which, as a result of the folding, are arranged one above the other. (See Id.). During the production of the substantially tubular bag (1), pre-creases (3, 4, 5, 7) are introduced into the bag material. (See Id., ¶¶ [0037]-[0039], Fig. 2). At least one of the pre-creases (7) is substantially parallel to the partially closed area (2) on a closed side of the bag (1). (See Id., ¶ [0039], Fig. 2).

6. Grounds of Rejection to be Reviewed on Appeal

- I. Whether claims 1-9 and 11-18 are unpatentable under 35 U.S.C. § 103(a) over U.S. Patent No. 3,738,091 to Fesco in view of U.S. Patent No. 6,156,086 to Zhang.
- II. Whether claims 20-24 and 26-29 are unpatentable under 35 U.S.C. § 103(a) over Fesco in view of Zhang and further in view of U.S. Patent No. 6,009,925 to Hall et al. (hereinafter "Hall").

7. Argument

- I. The Rejection of Claims 1-9 and 11-18 Under 35 U.S.C. § 103(a) Should Be Reversed.

A. The Examiner's Rejection

In the Final Office Action, the Examiner rejected claims 1-9 and 11-18 under 35 U.S.C. § 103(a) as unpatentable over Fesco in view of Zhang. (See 9/21/09 Office Action, pp. 2-3.)

- B. Fesco And Zhang Do Not Disclose Or Suggest Edges Of The Bag Are At Least Partially Interconnected By A Weld Seam And A [re-crease Is Introduced Into The Bag Material Substantially Parallel To The Weld Seam In The Bottom As Recited In Claims 1-9 and 11-18.
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Claim 1 recites, “[a] filter bag for a vacuum cleaner, comprising: a substantially tubular bag made from a bag material having at least one non woven composite layer, the bag having a closed free end area and an at least partially closed area opposite the closed free end area; and a retaining plate, *wherein edges of the bag are at least partially interconnected by a weld seam to form the at least partially closed area*, and wherein a bottom of the bag is formed by at least partially interconnecting plies of the bag material at least in areas in which plies of the bag material lie one above the other, *wherein a pre-crease is introduced into the bag material substantially parallel to the weld seam in the bottom.*”

In the Final Office Action, the Examiner asserts that folding lines 68, 70, and 72 meet the claimed pre-crease that is substantially parallel to the weld seam. (See 9/21/09 Office Action, p. 5). To support this assertion, the Examiner states that “Fesco discloses the fold lines are scored, i.e. by a tool the same as the pre-crease of Appellant and as admitted by Appellant in the specification, paragraph 0012.” (See *Id.*). Appellant respectfully disagrees. Initially, Appellant notes that the ordinary meaning of “score” is “a line (as a scratch or incision) made with or as if with a sharp instrument.” (See Merriam-Webster’s Collegiate Dictionary, definition for “score”). Nothing in Fesco would contradict or change this ordinary meaning. In contrast, claim 1 recites “a pre-crease is introduced into the bag material.” Appellant respectfully submits that one of ordinary skill in the art would understand that a “pre-crease” is a fold and not a “scratch or incision.” As defined by the Merriam-Webster Collegiate Dictionary, “crease” is “a line, mark, or ridge made by or as if by folding a pliable substance.” (See Merriam-Webster’s Collegiate Dictionary, definition for “crease”). The introduction of the prefix “pre-” does not change the nature of the term “crease” as being fundamentally directed to a folding, as opposed to a scratching or incision.

Furthermore, even if Fesco does disclose a pre-crease (which Appellant does NOT concede), the Examiner refers to the folding lines in the blank (40) of Fesco to meet this limitation. However, claim 1 does not recite a blank with a pre-crease, but rather a filter bag with a pre-crease. In contrast, it is only the blank (40) and not the finished filter bag (20) of Fesco (shown in Figs. 1-3 of Fesco) that has folding lines. Accordingly, Fesco fails to disclose or suggest a filter bag for a vacuum cleaner “wherein a pre-crease is introduced into the bag material substantially parallel to the weld seam in the bottom,” as recited in claim 1. Appellant respectfully submits that Zhang fails to cure this deficiency.

Furthermore, claim 1 also recites that the “edges of the bag are at least partially interconnected by a weld seam.” Since Fesco’s filter bag is constructed with paper and paper cannot be welded, the Examiner correctly acknowledges that Fesco fails to disclose a weld seam. (See 9/21/09 Office Action, p. 3). To cure this deficiency, the Examiner refers to Zhang. However, Zhang discloses prior filter bags have seams formed by welding. (See Zhang, col. 2, ll. 18-19). Zhang apparently perceives such construction as deficient because Zhang replaces the weld seams of prior bags with “thermal seams.” (See Zhang, col. 2, l. 44). Thus, Appellant respectfully submits that Zhang teaches away from the use of a weld seam.

Appellant respectfully submits that Fesco and Zhang, taken alone or in combination, fail to disclose or suggest “edges of the bag are at least partially interconnected by a weld seam to form the at least partially closed area” and “a pre-crease is introduced into the bag material substantially parallel to the weld seam in the bottom,” as recited in claim 1. Therefore, it is respectfully submitted that claim 1 and its dependent claims 2-9 and 11-18 are allowable.

II. The Rejection of Claims 20-24 And 26-29 Under 35 U.S.C. § 103(a)
Should Be Reversed.

A. The Examiner’s Rejection

In the Final Office Action, the Examiner rejected claims 20-24 And 26-29 under 35 U.S.C. § 103(a) as unpatentable over Fesco in view of Zhang and further in view of Hall. (See 9/21/09Office Action, p. 4)

- B. Fesco, Zhang And Hall Do Not Disclose Or Suggest At Least One Of The Pre-creases Is Substantially Parallel To The Partially Closed Area On A Closed Side Of The Bag As Recited In Claims 20-24 And 26-29.
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Appellant respectfully submits that Hall also fails to cure the above-mentioned deficiencies of Fesco and that Fesco, Zhang, and Hall, taken alone or in any combination, fail to disclose or suggest “pre-creases are introduced into the bag material, wherein at least one of the pre-creases is substantially parallel to the partially closed area on a closed side of the bag,” as recited in claim 20. Therefore, it is respectfully submitted that claim 20 and its dependent claims 21-24 and 26-29 are allowable for at least the foregoing reasons presented with regard to claim 1.

8. Conclusion

For the reasons set forth above, Appellants respectfully request that the Board reverse the rejections of the claims by the Examiner under 35 U.S.C. § 103(a), and indicate that claims 1-9, 11-18, 20-24, and 26-29 are allowable.

Respectfully submitted,

Date: May _____, 2010

By: _____
Oleg F. Kaplun (Reg. No. 45,559)

Fay Kaplun & Marcin, LLP
150 Broadway, Suite 702
New York, NY 10038
Tel.: (212) 619-6000
Fax: (212) 619-0276

CLAIMS APPENDIX

1. (Previously Presented) A filter bag for a vacuum cleaner, comprising:
 - a substantially tubular bag made from a bag material having at least one non woven composite layer, the bag having a closed free end area and an at least partially closed area opposite the closed free end area; and
 - a retaining plate, wherein edges of the bag are at least partially interconnected by a weld seam to form the at least partially closed area, and wherein a bottom of the bag is formed by at least partially interconnecting plies of the bag material at least in areas in which plies of the bag material lie one above the other,
 - wherein a pre-crease is introduced into the bag material substantially parallel to the weld seam in the bottom.
2. (Original) The filter bag according to claim 1, wherein the weld seam in the bottom extends over an entire width of the bottom.
3. (Original) The filter bag according to claim 1, wherein the plies are interconnected by at least one of (i) gluing and (ii) welding.
4. (Original) The filter bag according to claim 3, wherein at least one of the gluing and the welding is linear.
5. (Original) The filter bag according to claim 1, wherein the bottom has a substantially square shape.
6. (Original) The filter bag according to claim 1, wherein the bottom has a substantially rectangular shape.
7. (Original) The filter bag according to claim 1, wherein, starting from the bottom to the closed free end area, at least one pre-crease is introduced in the bag material.

8. (Original) The filter bag according to claim 5, wherein, starting from respective corners of the bottom to the closed free end area, pre-creases are introduced into the bag material.
9. (Original) The filter bag according to claim 1, wherein, starting from the weld seam in the bottom, at least one pre-crease is introduced into the bag material up to the closed free end area.
11. (Previously Presented) The filter bag according to claim 1, wherein the pre-crease is introduced into the bag material spaced from the weld seam by a distance corresponding to approximately a width of the bottom.
12. (Original) The filter bag according to claim 1, wherein the retaining plate is arranged on the bottom to at least partially cover the bottom, the retaining plate having at least one through hole.
13. (Original) The filter bag according to claim 12, wherein the retaining plate covers an entire area of the bottom.
14. (Original) The filter bag according to claim 1, wherein the retaining plate is arranged on an area spread between the closed free end area and the at least partially closed end area, the retaining plate having at least one through hole.
15. (Original) The filter bag according to claim 14, wherein the retaining plate is arranged in a region of the bottom.
16. (Original) The filter bag according to claim 1, wherein the retaining plate is connected to the filter bag using at least one of gluing and welding.
17. (Original) The filter bag according to claim 1, wherein the retaining plate is formed from a plastic material.

18. (Original) The filter bag according to claim 1, wherein the retaining plate is formed from a cardboard.

20. (Previously Presented) A method for manufacturing a filter bag according to claim 1, comprising of steps:

- a) producing a substantially tubular bag having at least partially closed area on a closed side of the bag;
- b) introducing a die from an open side of the bag in a direction of the closed side of the bag so that a bottom is produced by folding the bag over the die;
and
- c) connecting plies in the bottom which, as a result of the folding, are arranged one above the other,

wherein, during step a), pre-creases are introduced into the bag material, wherein at least one of the pre-creases is substantially parallel to the partially closed area on a closed side of the bag.

21. (Original) The method according to claim 20, wherein step a) is performed in cycles, a tube being produced from a filter material and the open side being closed.

22. (Original) The method according to claim 20, wherein, wherein, while the at least partially closed area is being produced in the step a), a free end of a previously produced bag is simultaneously closed.

23. (Original) The method according to claim 22, further comprising separating from one another bags produced in a single working cycle.

24. (Original) The method according to claim 23, wherein the separating step takes place mechanically.

26. (Previously Presented) The method according to claim 20, wherein the pre-creases are

introduced by at least one of a suitable forming tool and welding.

27. (Original) The method according to claim 20, wherein the die is used as a sound reflector for a sonotrode.

28. (Original) The method according to claim 20, wherein the die is used as a sonotrode for a sound reflector.

29. (Original) The method according to claim 20, wherein, during step a), an opening is introduced into the filter material forming a web.

EVIDENCE APPENDIX

No evidence has been submitted herewith or is relied upon in the present appeal.

RELATED PROCEEDINGS APPENDIX

No decisions have been rendered regarding the present appeal or any proceedings related thereto.